

In re Patent Application

Serial No. 09 / 219 , 478

Filed: December 22, 1998

Examiner: Michael Pender

Protest under 37 CFR 1.291

**Exhibit B**

**Affidavit of Michael Rubin.**

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Affidavit of Michael H. Rubin

THIS INSTRUMENT HEREBY ACKNOWLEDGES that the undersigned, Michael H. Rubin, residing at 916 Michigan St., Evanston, IL 60202, is of legal age, and does hereby swear and affirm that the following is true and accurate, to the best of his knowledge and recollection, under penalty of perjury:

I was employed at Andersen Consulting from July 1996 through September 1999. From March 1998 through September 1999 I was involved in Andersen Consulting's Business Simulation practice.

This affidavit is in respect to patent 09/219/478, which as of this writing is pending Notice of Allowance. Andersen Consulting submitted this application with 24 others using an omnibus specification in December of 1998. These patents refer to "a rules based expert system" which is known internally at Andersen Consulting as the "Tutor." I believe the inventorship on patent 09/219/478 may be incorrect.

During the summer of 1998, I personally sent several documents related to the Tutor and it's workbench referred to internally as "ETSICA" to L. Keith Stephens, an attorney hired by Andersen Consulting to patent inventions created by the Business Simulation practice. I sent this material to L. Keith Stephens as email attachments under the direction of John R. Hubbell, an Andersen Consulting manager, and Eric J. Lannert, a former Andersen Consulting employee.

In addition, Eric J. Lannert and Eric Blow, another Andersen Consulting employee, sent additional documents and source code to L. Keith Stephens via email as well as on CD-ROM.

The documents describing the Tutor were mostly written by Michael R. Smialek and Malcolm J. Youngren who had their names on these documents. The documents included HTML pages and detailed Microsoft Word documents describing the use of the Tutor and ETSICA. The Tutor and ETSICA were designed and developed mostly by Michael R. Smialek and had his name prominently displayed in the source code. Within the Andersen Consulting Business Simulation practice, Michael R. Smialek is widely known in the as the inventor of the Tutor, and ETSICA.

Although the claims are unknown to me, the omnibus specification used for patent 09/219/478, suggests that Michael R. Smialek should be listed as either the primary inventor or a contributing inventor.

Signed this day:



Michael H Rubin

7/14/2000

Date

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